

No. 2015-47

AN ACT

SB 875

Providing for the use of treated mine water for oil and gas development.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Treated Mine Water Act.

Section 2. Findings and declarations.

The General Assembly finds and declares as follows:

(1) The oil and gas industry needs reliable sources of water to drill, complete and hydraulically fracture conventional and unconventional oil and gas wells.

(2) An acceptable source of water for oil and gas development is treated mine water from coal mines.

(3) Treated coal mine water can be effectively substituted for fresh water for oil and gas well development, which conserves sources of fresh water.

(4) The purpose of this act is to protect a mine operator who provides treated mine water for the development of an oil or gas well from liability for the offsite use of treated mine water and to protect persons who use treated mine water to develop oil and gas wells from liability for the treatment or abatement of mine drainage or mine pool water.

(5) Treated mine water and mine drainage are not residual waste or solid waste for the purposes of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Environmental Protection of the Commonwealth.

"Mine drainage" or "mine pool water." Water contained in a mine pool or a surface discharge of water caused by mining activity.

"Mine operator." The permittee of an active or closed coal mine that treats mine drainage or mine pool water under a permit issued by the department.

"Oil or gas well development." The drilling, completion, hydraulic fracturing or other development of a conventional or unconventional oil or gas well.

"Treated mine water." Water from an active or closed coal mine that is treated by a mine operator under a permit issued by the department.

Section 4. Liability.

(a) Immunity.—A mine operator who provides treated mine water from a permitted mining activity site shall be immune from liability for any cost,

injury or damage arising out of the use of the treated mine water if all of the following apply:

(1) The treated mine water is for use outside the boundaries of the permitted mining activity site.

(2) The treated mine water is for oil or gas well development.

(3) The mine operator is not the same person using the treated mine water for oil or gas well development.

(b) Acquisition.—A person who acquires treated mine water from a mine operator for use in oil or gas well development shall be immune from liability for the treatment or abatement of the mine drainage or mine pool water as a result of acquiring or using treated mine water.

(c) Limitation.—Nothing under this act shall limit the liability of a person for unlawful spills or releases of treated mine water caused by the person. Except as provided under subsections (a) and (b), nothing under this act shall relieve a mine operator or a person who acquires treated mine water for use in oil or gas well development from the mine operator's or person's obligations under law.

Section 5. Solid waste.

Treated mine water that meets the effluent limits of the National Pollutant Discharge Elimination System permit for the source mine and is being used in an oil or gas development project shall not be considered a solid waste as defined in section 103 of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

Section 6. Effective date.

This act shall take effect in 60 days.

APPROVED—The 8th day of October, A.D. 2015

TOM WOLF